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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/092,774	03/05/2002	Gary Sprague	27458-1/P11	8633
7590	10/27/2003			EXAMINER VARNER, STEVE M
David B. Woycechowsky, Esq. Luce, Forward, Hamilton & Scripps LLP Suite 2600 600 West Broadway San Diego, CA 92101			ART UNIT 3635	PAPER NUMBER
DATE MAILED: 10/27/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/092,774	SPRAGUE, GARY
	Examiner	Art Unit
	Steve M Varner	3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 28 May 2003.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8,11-18 and 21-23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 1-4,8 and 21-23 is/are allowed.

6) Claim(s) 5-7,11-18 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-7, 18, are rejected under 35 U.S.C. 102(b) as being anticipated by Lu.

Refer to Fig. 4.

Regarding claim 5, Lu teaches a first inclined surface (B) oriented to be generally inclined with respect to the first plane (outer surface of left side of 10) and a second inclined surface (C) oriented to be generally inclined with respect to the first plane (outer surface of right side of 10). Lu shows a first clamp member (71) with an inclined surface (A) located adjacent to the first inclined surface (B) of the housing (10) and oriented to be approximately parallel to the first inclined surface (B) of the housing (10) and a pane-clamping surface (inside surface of 71). Lu claims a second clamp member (72) with an inclined surface (D) located adjacent to the second inclined surface (C) of the housing (10) and oriented to be approximately parallel to the second inclined surface (C) of the housing (10) and a pane-clamping surface (inside surface of 72). Lu teaches a screw (9) and a nut (125) threadably engaged with the screw (9) and located to drive the first (71) and second (72) clamp members in a direction along the first plane. (Fig. 4, 7)

Regarding claim 6, Lu shows a first (G) and second (H) channel wall. (Fig. 4)

Regarding claim 7, Lu shows the screw accessed through an accessory channel. (Fig. 4)

Regarding claim 18, Lu shows the screw oriented substantially parallel to the first plane. (Fig. 4)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of Boeckx.

Regarding claim 11, Lu claims the basic claimed structure. Lu does not claim a first pad adjacent to the pane-clamping surface of the first clamp member and a second pad adjacent to the pane-clamping surface of the second clamping member. Boeckx shows a first pad (13) adjacent to the pane-clamping surface of the first clamp member and a second pad (14) adjacent to the pane-clamping surface of the second clamp member. (Fig. 1) It would have been obvious to one of ordinary skill in the art at the time the present invention was made to use a first and second pad as in Boeckx in the structure of Lu to grip the pane.

Regarding claim 12, Lu claims the basic claimed structure. Lu does not claim the first and second inclined surfaces of the housing between 25 degrees and 35 degrees from the first pane. It would be an obvious design choice to have the first and second

inclined surfaces of the housing between 25 degrees and 35 degrees to create stops to the movement of the clamps, which immobilizes the pane in a parallel position (Col. 5, Line 35-45).

Regarding claim 13, Lu shows the basic claimed structure. Lu does not claim the first and second clamp to be within 2 degrees of the first and second inclined surfaces of the housing. It would be an obvious design choice for the inclined surfaces of the first and second clamp to be within 2 degrees of the first and second inclined surfaces of the housing. This would allow for the stops to mesh closely when the pane is immobilized.

Regarding claim 14, Lu teaches the basic claimed structure. Lu does not teach the inclination of the inclined surface of the first clamp member or second clamp member from the first plane approximately 1 degree greater than the inclination of the first or second inclined surface of the housing from the first plane. It would be an obvious design choice to have the inclination of the inclined surface of the first clamp member or second clamp member from the first plane approximately 1 degree greater than the inclination of the first or second inclined surface of the housing from the first plane. This would allow for the stops to mesh closely when the pane is immobilized.

Regarding claim 15, Lu shows the basic claimed structure. Lu does not show the first and second inclined surfaces of the housing to have equal inclinations. It would be an obvious design choice for the first and second inclined surfaces of the housing to have equal inclinations. This would allow for the stops to mesh closely when the pane is immobilized.

Regarding claim 16, Lu shows the basic claimed structure. Lu does not claim the fastener out of metal. Boeckx discloses his fastener out of metal. (Abstract) Aluminum is an obvious design choice metal.

Regarding claim 17, Lu claims the basic claimed structure. Lu does not claim an anodized finish. An anodized finish is an obvious design choice for aluminum.

Allowed Claims

Claims 1-4, 8, 21-23, are allowed.

Claims 1, 8, 23, are allowed for each clamp member of the pair of clamp members having a single mating surface located to be in contact with the at least one mating surface of the housing.

Claims 2-4 depend from claim 1 and are therefore allowed.

Claim 21 is allowed for the elongated nut strip disposed substantially between the clamp members.

Claim 22 is allowed for a portion of the nut strip located adjacent to the first clamp member, and a portion of the nut strip located adjacent to the second clamp member.

Response to Arguments

Applicant's arguments filed 5/28/03 have been fully considered but they are not persuasive.

Applicant argues that Lu teaches a screw and a nut threadably engaged with the screw and located to drive the first and second clamp members together not in a direction along the first plane.

Lu's screw (9) is located to drive in a direction along the first plane.

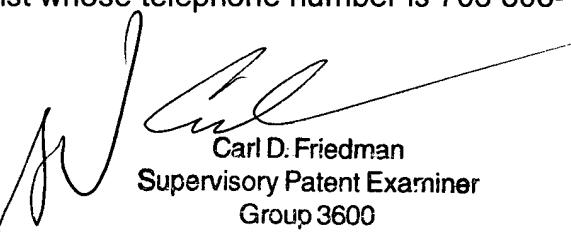
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sprague shows a door rail system. Husting et al. shows an adjustable wall jamb. Horgan, Jr. teaches a door shoe assembly. Yates discloses glass door and window structures.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-08390839. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305-7687 for regular communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308-1113.


Carl D. Friedman
Supervisory Patent Examiner
Group 3600

SV

October 22, 2003